

IN THE SUPREME COURT OF THE STATE OF DELAWARE

CANDY L. SNYDER, ¹	§	
	§	No. 272, 2009
Respondent Below,	§	
Appellant,	§	Court Below—Family Court of
	§	the State of Delaware in and for
v.	§	Kent County
	§	
MATTHEW R. SNYDER,	§	
	§	
Petitioner Below,	§	File No. CK05-01326
Appellee.	§	

Submitted: September 25, 2009

Decided: December 15, 2009

Before **HOLLAND, BERGER** and **JACOBS**, Justices.

ORDER

This 15th day of December 2009, upon consideration of the briefs of the parties and the Family Court record, it appears to the Court that:

(1) The appellant, Candy L. Snyder (“Mother”), has appealed the Family Court’s order of April 15, 2009 that denied her Request for Review of a Commissioner’s Order. Having concluded that the commissioner’s order was improvidently issued, we reverse the Family Court’s judgment and remand the matter for further proceedings.

¹ The caption reflects pseudonyms previously assigned by the Court. Del. Supr. Ct. R. 7(d).

(2) It appears from the record that the appellee, Matthew R. Snyder (“Father”), filed a petition for modification of child support in February 2008. After a hearing on August 27, 2008, a commissioner issued a permanent modification support order (hereinafter “commissioner’s support order”) dated August 29, 2008.

(3) On September 23, 2008, Mother filed a document entitled “objections to order.” Mother’s objections sought relief from the commissioner’s support order. By order dated October 15, 2008, the commissioner denied Mother’s objections on the basis that “[a]ll issues were addressed at the child support hearing.”

(4) Mother appealed the commissioner’s October 15, 2008 order to this Court. On November 13, 2008, the Clerk issued a notice directing that Mother show cause why the appeal should not be dismissed for this Court’s lack of jurisdiction to consider an appeal from a commissioner’s order. Eventually, the Court dismissed Mother’s appeal when she did not respond to the notice to show cause.²

(5) On November 13, 2008, Mother filed a Request for Review of a Commissioner’s Order. In her request, Mother sought review of the

² *Snyder v. Snyder*, 2009 WL 189885 (Del. Supr.).

commissioner's October 15, 2008 order and "to make every objection filed in response to [the commissioner's support order] a part of . . . [the] review."

(6) After an independent review of the record and a *de novo* determination of the commissioner's October 15, 2008 order, the Family Court accepted the order "in whole." The Family Court declined to review the commissioner's support order, however, on the basis that Mother's November 13, 2008 request for review was untimely filed as to that order. This appeal followed.

(7) A party's right to review of a commissioner's order is governed by title 10, section 915(d)(1) of the Delaware Code.³ That section provides:

Any party, except a party in default of appearance before a Commissioner, may appeal a final order of a Commissioner to a judge of the Court by filing and serving written objections to such order, as provided by rules of the Court, within 30 days from the date of a Commissioner's order. A judge of the Court shall make a *de novo* determination of those portions of the Commissioner's order to which objection is made. A judge of the Court may accept, reject or modify in whole or in part the order of the Commissioner. The judge may also receive evidence or recommit the matter to the Commissioner with instruction.⁴

(8) In this case, it appears to the Court that Mother was effectively denied her statutory right to appeal the commissioner's support order when her timely-filed "objections to order" were considered by a commissioner

³ Del. Code Ann. tit. 10 § 915(d)(1) (Supp. 2008).

⁴ *Id.*

and not a judge. In the interest of justice, we will remand this matter to the Family Court with instructions to (i) vacate the commissioner's October 15, 2008 order and (ii) make a *de novo* determination of the commissioner's support order under section 915(d)(1) after considering Mother's "objections to order" *nunc pro tunc*.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Family Court is REVERSED. This matter is REMANDED for further proceedings in accordance with this Order.

BY THE COURT:

/s/ Carolyn Berger
Justice